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Underground Storage Tank Maintenance Fee

Overlooked Waste Oil Tanks May Result in a Tax Liability

Do you own a retail location that sells gasoline or diesel fuel? Do you perform oil changes at your location? The Fuel Taxes Division has found that many retailers of gasoline and diesel fuel and those who perform lubrication services are not fully aware of their reporting responsibility for the Underground Storage Tank Maintenance Fee (UST fee).

As the owner of an underground storage tank, you owe the UST fee on each gallon of petroleum product placed into your underground storage tank—including a small-capacity waste oil tank. When reporting total gallons on your quarterly UST fee return, be sure to include the amount

of petroleum products placed into your underground waste oil tank. Petroleum products include, but are not limited to, motor oil and waste oil, as well as gasoline and diesel fuel.

Childhood Lead Poisoning Prevention Fee

Applying for Exemption from the Fee

You may be eligible for exemption from the Childhood Lead Poisoning Prevention Fee. To qualify for exemption from the fee, you must be able to demonstrate that the industry with which your business is associated is not currently and has not historically engaged in the stream of commerce of lead or products containing lead. You must also be able to demonstrate that the industry with which your business is associated is not currently and was not historically responsible for identifiable sources which contribute or contributed to lead contamination.

If you are unable to establish all of the above points, you may still qualify for exemption from the fee if you show that you have never been associated with lead or products containing lead or—if you have—you can show that the lead or products involved did not result in quantifiably persistent environmental lead contamination. You may apply for exemption from the Childhood Lead Poisoning Prevention Fee at the following address:

Department of Health Services
Childhood Lead Poisoning Prevention
Branch
Attn: Fee Exemption Request
1515 Clay Street, Suite 1801
Oakland, CA 94612

If you have paid the fee and are subsequently granted exemption from the fee, you may file a claim for refund with the Board. The claim for refund must be in writing and mailed to:

State Board of Equalization
Fuel Taxes Section, MIC: 30
P.O. Box 942879
Sacramento, CA 94279-0030

Diesel Fuel Tax

How To Claim a Tax Refund

Note: The following information does not apply to tax refund claims made by (1) exempt bus operators who use diesel fuel in exempt bus operations or (2) farmers who use diesel fuel for farming purposes. Such persons must obtain tax refunds from the licensed vendor(s) who sold them the fuel. They cannot file a claim directly with the Board. — Editor

If you have paid diesel fuel tax on your purchase of diesel fuel, you may be entitled to a refund and can file a refund claim if

1. You make a nontaxable sale or use of the fuel, or
 2. You sell tax-paid undyed diesel fuel to an exempt bus operator for use in an exempt bus operation or to a farmer for use on a farm for farming purposes (sales to ultimate purchasers)
- 1. You sell or use the diesel fuel for a nontaxable use (except for sales to ultimate purchasers). Revenue and Taxation Code section 60501.**

You must complete and file form BOE-770-DU, *Claim for Refund of Diesel Fuel Tax on Nontaxable Uses*.

Along with your claim form, you must include a properly completed Schedule A. Otherwise, your claim will be returned without processing. The information you must provide on Schedule A will vary depending on how the fuel was delivered, as described below:

a. Fuel was delivered into a storage tank

On Schedule A list all diesel fuel purchases, showing the supplier's name, address, diesel

fuel permit number or Federal Employer Identification Number, purchase date, invoice number, and diesel fuel gallons included on each invoice. Report *all* California tax-paid gallons of diesel fuel purchased during the claim period—*not* just the gallons for which the tax refund is claimed.

Note: The Schedule A instructions currently require that you report only the gallons for which a refund of tax is claimed. The instructions for Schedule A are currently being revised to require that all tax paid gallons be reported.

b. Fuel was purchased at retail pump and dispensed into the fuel tank of a vehicle

On Schedule A list an aggregate monthly total purchase, by vendor, listing the invoice date as the last day of the month and the invoice number as 99999. Retain all individual purchase invoices to submit upon request to the Board in support of your claim form. (If you use a cardlock system and you receive a monthly statement listing all diesel fuel purchases by location, list monthly purchases by location on Schedule A.)

- 2. You are an ultimate vendor and sell tax-paid undyed diesel fuel to an exempt bus operator for use in an exempt bus operation or to a farmer for use on a farm for farming purposes (sales to ultimate purchasers). Revenue and Taxation Code section 60502.**

How you will claim a refund depends on whether you file your report/refund claim forms on a **monthly** basis or on a **monthly and weekly** basis.

a. You file only on a monthly basis (using form BOE-770-DV).

If the sales for which you are claiming a refund will result in at least a \$200 refund, you can use the claim portion of your report form (lines 4-11). (If your sales do not generally result in an aggregate amount of tax to be refunded of at least \$200 in a month, contact the Fuel Taxes Division to discuss setting up another claim reporting basis.)

Do not include any sales previously reported on any other claim for refund.

Do not include sales that occurred in a period other than the monthly period for which the report is filed. To claim a refund for sales that occurred *prior* to the reporting period covered by your monthly vendor report/claim form, you must submit a *separate* written request (see “c” below).

b. You file on a weekly and monthly basis (using forms BOE-770-DVW and BOE-770-DV).

In general, if you have at least \$200 in tax refund claims per week, you should use the weekly (DVW) form. If the refund due you for one week’s sales is less than \$200, wait to file until the total is at least \$200, or include the sales on your monthly (DV) form. Do not overlap dates on weekly claims.

To claim a refund for sales that occurred prior to the reporting period of the monthly form, you must file a separate written request (see “c” below).

c. Separate written requests

As noted above, you must submit a separate written request to claim a tax refund for fuel sold prior to the reporting period shown on your monthly report/refund claim form (BOE-770-DV). Do not use the claim form for these requests.

Your claim must result in an aggregate amount of tax to be refunded of at least \$200. Your claim may cover more than one reporting period. Mail your claim to

Board of Equalization
Fuel Taxes Section MIC:30
P.O. Box 942879
Sacramento, CA 94279-0030

Include the following information:

- Your permit number.
- The name, address, telephone number, and permit number of each person from whom you purchased the fuel and the date of each purchase.
- For each farmer or exempt bus operator who purchased the claimed diesel fuel from you, provide the name, address, telephone number, federal taxpayer identification number, and diesel fuel permit number. Also provide the invoice number, date, and number of gallons sold to each.
- A statement that the diesel fuel covered by the claim did not contain visible evidence of dye.
- The total amount of diesel fuel covered by the claim.
- A statement that you have not included the amount of the tax in your sales price of the diesel fuel and have not collected the amount of tax from your buyer.
- A statement that you possess an unexpired exemption certificate and that you have no reason to believe any information in the certificate is false.
- A statement that the amounts claimed have not been previously refunded to you and that there are no other claims outstanding for the amounts included in the current claim.

In addition, include copies of the following documents:

- Valid exemption certificates for the sales.
- All sales invoices.
- Any applicable credit memos.

General Record Requirements

The Revenue and Taxation Code (section 60604) states that every person dealing in, removing, transporting, or storing diesel fuel in this state must keep records, receipts, invoices, and other pertinent papers with respect to any claim for refund filed, as the Board may require. If you do not maintain these records, you are subject to penalties provided by the Diesel Fuel Tax Law.

Diesel Fuel Tax *(continued)*

DI Program

(Interstate User Diesel Fuel Tax Program)

Revised license application procedures

We have established new application procedures to obtain a license under the Interstate User Diesel Fuel Tax Program. As a result, both current license holders and new applicants must apply for a permit under the new procedures.

If you are currently registered under this program, you should receive an *Application for Interstate User Diesel Fuel Tax License* (form BOE-400-DI) in the mail. You must complete and return the application to retain your license.

Carriers who operate qualified, diesel-powered vehicles and fall under one of the following criteria should be registered under this program:

- California-based carriers who operate between California and Mexico only
- Mexico-based carriers who enter California
- Any carrier not based in an IFTA jurisdiction who enters California

If you have any questions or if you are registered under this program and you have not received a new license application, please contact the IFTA Section at 916-322-9669.

License Revocation Procedures for Delinquent Accounts

If you have not filed a timely Interstate User Diesel Fuel Tax return or tax payment, the Board will initiate procedures to revoke your license. Approximately thirty days after the due date of the return, we will send you a delinquency notice. Shortly thereafter, we will issue a *Notice to Appear—Revocation Proceedings*, indicating the cause for revocation and the date of revocation. On the date of revocation, if the cause for revocation has not been cleared, a *Notice of Revocation* will be mailed.

The Board will also revoke the license of a carrier who does not pay an account receivable balance or who fails to post required security.

After revocation, your license is no longer valid. If you travel with a revoked license, you are subject to the same citations, fines, and penalties as unlicensed carriers. The penalty for operating as an interstate user of diesel fuel without a valid license or a California Fuel Trip Permit is a minimum of \$100 in instances where the Board determines that no tax is due. The penalty is increased by an additional \$100 for each subsequent violation, up to a maximum of \$500. If the Board determines that tax is due, the penalty is \$500 or 25% of the tax due, whichever is greater. In addition to the penalty assessment, the carrier must purchase a \$30 California Fuel Trip Permit to continue the trip.

For More Information

Fuel Taxes Division. If you have questions or comments, please call us at 916-322-9669, or write to: Fuel Taxes Division; State Board of Equalization; 450 N Street, MIC: 30; P.O. Box 942879; Sacramento, CA 94279-0030.

Internet. Visit us at <http://www.boe.ca.gov> to obtain information on tax rates, publications, legislation, regulations, telephone numbers, education programs, public meetings, and so forth.

Tax Evasion Hotline. To report suspected tax evasion, call toll-free, 1-888-334-3300.

Copies of Legislative Bills. Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Or visit the following website: <http://www.leginfo.ca.gov>. The Bill Room does not provide copies of Board forms or publications.

Taxpayers' Rights Advocate. If you need help with a problem you have been unable to resolve at other levels, please call the Advocate's office at 1-888-324-2798.